

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALEVA STORES, LLC,

Plaintiff,

v.

GOFIT, LLC,

Defendant.

Case No. 23-10717

Honorable Shalina D. Kumar

Magistrate Judge Kimberly G. Altman

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF NO. 18)
AND GRANTING DEFENDANT'S MOTION TO SET ASIDE CLERK'S
ENTRY OF DEFAULT JUDGMENT (ECF NO. 13)**

On March 28, 2023, plaintiff Aleva Stores LLC brought this action against defendant GoFit LLC alleging it failed to indemnify Aleva for fees and expenses it incurred defending claims brought by a purchaser of defective GoFit exercise bands. ECF No. 1. Aleva amended its complaint on April 11, 2023 (ECF No. 5) and a summons was issued for GoFit on April 25, 2023. ECF No. 7. GoFit was served on May 1, 2023, making its answer due on May 22, 2023. ECF No. 8. After GoFit failed to file an answer, on May 30, 2023 Aleva requested a Clerk's Entry of Default which was issued the following day. ECF Nos. 9, 10. On May 31, 2023, Aleva requested a Clerk's Entry of Default Judgment in the amount of

\$183,973.94 (ECF No. 11) and the Clerk entered the judgment on June 5, 2023. ECF No. 12. On August 3, 2023, GoFit filed the instant motion to set aside the default judgment (ECF No. 13), which was then referred to the assigned magistrate judge. ECF No. 16.

On October 20, 2023, the assigned magistrate judge issued a Report and Recommendation (R&R). ECF No. 18. The R&R recommends that the Court grant defendant's motion to set aside the default judgment because GoFit demonstrated meritorious defenses to Aleva's claim and Aleva would suffer no cognizable prejudice should the default judgment be set aside. *Id.* Neither party filed an objection to the R&R.

The Court has reviewed the record and the R&R is hereby **ADOPTED** and entered as the findings and conclusions of the Court.

Accordingly,

IT IS ORDERED that defendant's motion to set aside the Clerk's entry of default judgment (ECF No. 13) is **GRANTED**.

Dated: November 13, 2023

s/Shalina D. Kumar
SHALINA D. KUMAR
United States District Judge